

MN JUDICIAL BRANCH



MINNESOTA JUDICIAL BRANCH

FIFTH JUDICIAL DISTRICT

Adult Treatment Court Guideline Manual

District Treatment Court Coordinators, Judges, Administration
6/1/2018 Revision

Approved by the Fifth Judicial District Judges on
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This document and its contents are not endorsed by the Minnesota Judicial Council or the National Treatment Court Institute. It was created through a collaborative effort on the part of the Fifth Judicial District treatment court coordinators, judges, prosecutors, defense attorneys, and treatment court team members. The following guideline manual has been designed as a unified guideline for the Fifth Judicial District Adult Treatment Courts and may not pertain to other treatment courts in the District.

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FORWARD

The following document shall provide a general framework of common principles, policies and practices for the Fifth Judicial District Adult Treatment Courts, hereinafter known as the Courts. The purpose of these standards and policies is to:

- Minimize duplication of efforts and ensure greater coordination of the Courts.
- Maximize coordination and sharing of resources within the Courts.
- Strengthen efforts to obtain Federal funding.
- Facilitate coordinated long-range plans for financing the Courts.

Developed through a consensus of the Minnesota Fifth Judicial District problem solving courts, which includes Blue Earth, Brown, Cottonwood, Faribault, Jackson, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles Pipestone, Redwood, Rock, and Watonwan Counties (hereinafter the District) the standards include all the elements that are considered essential to the operation of the Courts held in the District. Collectively they represent a required minimum program model. Specific practices are also described to provide examples of actions that should be taken to ensure conformity to the District and individual Multi-County Problem Solving Court program standards.

Treatment Court programs are intended to reflect the unique needs and operational environments of the Multi-County Problem Solving Court program jurisdictions. However it is clear that there is a need for overall uniformity as to basic components and operational procedures and principles. Therefore this document is an attempt to outline those fundamental standards and policies to which the District should subscribe.

Treatment Courts represent a very non-traditional approach to adult offenders who have been identified as moderate to heavy substance abusers. Treatment Courts are built upon a unique partnership between the criminal justice system and the drug treatment community, one which structures treatment intervention around the authority and personal involvement of a single Treatment Court judge. Treatment Courts are dependent upon the creation of a non-adversarial Courtroom atmosphere where a single judge and a dedicated team of Court officers and staff work together toward a common goal of breaking the cycle of drug abuse and criminal behavior.

We encourage readers to learn more about Treatment Courts by reading publications and research on Treatment Court outcomes. The following list of Web sites should help to further increase your knowledge of the principles and successes of Treatment Courts.

National Drug Court Institute/National Association for Drug Court Professionals: Contains facts, research, resources, and publications

<http://www.ndci.org/>

National Criminal Justice Reference Service: Contains a wide variety of publications

http://www.ncjrs.org/drug_Courts/publications.html

Minnesota Judicial Branch: Contains information on drug courts throughout the State

<http://www.mncourts.gov/Help-Topics/DrugCourts.aspx>

INTRODUCTION

Treatment Courts are a relatively new phenomenon in the state of Minnesota. The first adult Treatment Court was implemented in Hennepin County in 1997. Several other counties followed suit and have expanded into other problem solving arenas including DWI, Veterans, family dependency and mental health Courts. As of May 2018 there are sixty one (61) operational Treatment Courts in the state.

The Blue Earth County (BEC) adult Treatment Court is the oldest Court in the Fifth Judicial District, which is located in the southwestern part of the state. Blue Earth County completed the Treatment Court planning initiative in 2003-04 and began operations in late 2004. The BEC Treatment Court is located in the Blue Earth County Courthouse, Mankato, Minnesota and meets once a week. The BEC Treatment Court is a single county team/coordinator program. The Treatment Court team conducts a pre-court conference to discuss cases scheduled for Court. The BEC Treatment Court Team consists of the following: Judge, Coordinator, Law Enforcement, County Attorney, Public Defender, Probation Officers, Rule 25 Representative/Social Worker and appropriate Treatment Counselors. Also, a Peer Support position has been added to the Blue Earth County Treatment Court.

In 2006, the Minnesota state legislature appropriated funds to the Minnesota Supreme Court for the purpose of piloting two multi-county Treatment Court programs in the Fifth Judicial District. The first project was developed by Faribault, Martin and Jackson counties as a “Single Location Multi-County Treatment Court”. Under this model there is one central location for the Treatment Court. Participants and the team members from Faribault and Jackson counties travel to court in Martin County.

The second project was a “Partial Traveling Criminal Justice Group” developed by Brown, Nicollet and Watonwan counties. The judge, compliance officer, probation agent and coordinator travel. Each county has their own individual team which includes the “traveling group”.

The Southwest Community Treatment Court (SCDC), implemented in 2009, is a collaboration of the counties of Lincoln, Lyon, Redwood and the Lower Sioux Indian Community, whose tribal land is located in Redwood County. There are two teams: one in Marshall, serving Lincoln and Lyon Counties; and one in Redwood Falls serving Redwood County and individuals living within 10 miles of the Lower Sioux reservation. There is one coordinator who travels between the two sites. This model is a partial traveling criminal justice group.

The Minnesota Cornerstone Treatment Court, implemented in 2011, is a collaboration of the counties of Cottonwood, Nobles, Murray, Pipestone and Rock counties. This collaboration had a rolling implementation process. The first is a single-location Multi-County Treatment Court, with participants and the team members from Rock and Nobles, traveling to a single location in Nobles County. Cottonwood County is operating as a single county Treatment Court. Murray and Pipestone counties developed implemented a multi-county system in April 2015, where the entire team travels between each county, every-other status hearing. There is one coordinator who travels between the counties. The model is a partial traveling criminal justice group.

The courts are eighteen to twenty-four month intensive programs that utilize a strength-based approach for participants. Individual plans are constructed for each participant where strengths, competencies and personal resources can be applied to building solutions to combat addiction and criminal conduct. The initial “Phases” of the Court interventions are intensive and gradually transition to less intensive interventions as the participants’ progress. Throughout the program participants are linked with appropriate specialized and ancillary services. The Court may also impose additional requirements as needed.

The Courts are specifically designated and staffed to supervise non-violent adult defendants who have been referred to a comprehensive and judicially monitored program of drug treatment and rehabilitation services. Adult substance abusers often lack the “hitting the bottom” motivation that dependent users have - and often use in the recovery process. Because of the unique problems and opportunities that present themselves in working with drug involved criminal defendants, intervention and rehabilitation strategies must be “reality-based”. The Courts’ programs must therefore recognize that:

Addicts/substance abusers are most vulnerable to successful intervention when they are in the crisis of initial arrest and incarceration, so *intervention must be immediate*.

Preventing gaps in communication and ensuring offender accountability are of critical importance, so *Court supervision must be coordinated and comprehensive*.

Substance Abuse seldom exists in isolation from other serious problems, which undermine rehabilitation, so *intervention must include other available services and resources such as educational assessments and job placement*.

Relapse and intermittent progress are part of the recovery process, so *sanctions and incentives must be integral to the Court intervention strategy*.

The Courts will include a focus on family issues. It is recognized that some families involved within the program are dysfunctional and, despite the program’s best efforts will not change sufficiently to support the offender’s needs. The Courts therefore must equip participants with life and coping skills and, if necessary, strive to find alternative role models.

MISSION

Treatment Courts in the Fifth Judicial District will enhance public safety by holding offenders accountable for their actions, while assisting them to achieve long-term recovery and become productive members of the community through a collaborative multi-disciplinary team approach.

MOTTO

Creating a climate for rehabilitation, recovery and reducing crime.

VALUES

All Treatment Courts in the District:

- Will implement evidence based practices including the National Drug Court Institute (NDCI) Drug Court Ten Key Components; National Association of Drug Court

Professionals (NADCP) Adult Drug Court Best Practice Standards, Volume I and II (NADCP/BPS, Vol. I/II); and Minnesota Judicial Branch, Drug Court Standards, Policy 511.1, revised 1/16/2009 (MJB/DCS Policy 511.1)

- Believe all residents eligible for Treatment Court have a right to Treatment Court no greater than 45 miles from their residence.
- Believe in its ability to protect the public and prevent further criminal activity by providing supervision and services that promote positive behavioral change in substance abusing offenders.
- Believe in an offender's ability to change and provide activities and services designed to facilitate change and help them to become productive members of society.
- Believe co-occurring substance abuse and mental health services should be provided in an individualized, equitable and nondiscriminatory manner.
- Will be accountable to its stakeholders by using resources in an efficient and effective manner and by demonstrating positive program results.
- Believe everyone who enters Treatment Court should have access to treatment regardless of their personal financial situation.
- Believe that by working together and sharing resources we can have greater impact on community safety and improve the quality of life for the citizen's in our region.

For information on a specific court, go to:

<http://www.mncourts.gov/Help-Topics/DrugCourts.aspx>

Key Component #1: Treatment Courts integrate alcohol, drug treatment, and mental health services with justice system case processing.

TREATMENT COURT TEAMS

In accordance with MJB/DCS Policy 511.1(2); NADCP/BPS, Vol. I, Standard 3; NADCP/BPS, Vol. II, Standard 8: The presiding judge and multi-disciplinary team of professionals work collaboratively to address the offense behavior and treat the existing mental health, chemical health or behavioral problems; and to facilitate access to eligible services throughout the community. Each Team should include, at a minimum, a representative from each of the following disciplines:

- Judge
- Treatment Court Coordinator
- Prosecutor
- Defense Counsel
- Law Enforcement
- Probation Representative
- Substance Abuse Treatment Professional
- Mental Health Professional
- Evaluator/Researcher, if applicable

TEAM ROLES AND RESPONSIBILITIES

In accordance with MJB/DCS Policy 511.1(1.2): A Memorandum Of Understanding (MOU) shall be established with each participating team member. This MOU will outline the expectations and participation between each member and the Team.

TREATMENT COURT JUDGE: The judge presides over the court proceedings and monitors appropriate application of disciplines, sanctions and incentives while maintaining the integrity of the court. The judge regularly reviews case status reports detailing each participant's compliance with the treatment mandate, drug test results, cooperation with the treatment provider, and progress towards abstinence and law-abiding behavior. During regular court appearances (the frequency can be once a week to once every two weeks), the judge administers a system of graduated sanctions and rewards to increase each participant's accountability and to enhance the likelihood of recovery.

As a result of their frequent interactions during court appearances, participants develop a strong rapport with the judge. The judge speaks directly to them, asking about their progress, exhorting them to try harder, and applauding their accomplishments, while also reminding them of the obligation to remain drug-free. The judge imposes any sanctions, including time in jail, for ongoing drug use or other behavior that is inappropriate or impedes progress in the program. The judge typically inquires about specific issues or difficulties, such as school attendance, attempts to gain employment, and efforts to reunite with their children and other family members. Finally, the Judge decides the ultimate program outcome of graduation or incarceration.

TREATMENT COURT COORDINATOR: The coordinator is typically responsible for overseeing the Treatment Court budget and resources, grant writing, maintaining individual files on participants, compiling statistical data and guiding or participating in program evaluation, contract management, preparation and management of Treatment Court dockets, and soliciting community support through education and other linkages in an effort to enhance services available to the participant. Other miscellaneous responsibilities can include such things as fund raising, organizing and/or chairing local multidisciplinary teams, and in situations where time and skills allow.

PROSECUTOR/COUNTY ATTORNEY: The prosecutor will review all potential participants for eligibility, actively participate in staffing of cases, and interact with the staffing team to address revocations, pleas and application of sanctions and incentives as they apply to the participant. The role of the prosecutor in a Treatment Court is quite different from a "typical" criminal proceeding where the roles of prosecutor and defense attorney are adversarial. In Treatment Court, all parties, including the prosecutor and defense attorney, share a common goal of successful treatment completion.

The prosecutor reviews new cases, determines which are Treatment Court appropriate, and recommends the incarceration alternative should the defendant fail to comply with the treatment mandate. As part of a collaborative team with the judge, defense attorney, case manager, and treatment staff, the prosecutor monitors participant progress and can make recommendations regarding sanctions and ultimate treatment outcomes. Also, if a participant is re-arrested, the prosecutor investigates the new case and assesses the appropriateness of continued participation.

DEFENSE COUNSEL: The public defender will actively participate as defense counsel by advocating for the participant during staffing and court proceedings in a non-adversarial manner, assisting with the negotiation of plea agreements, and completing necessary documents to facilitate the treatment process for the participant. The defense attorney is available to represent and counsel the defendant in all Treatment Court proceedings. The defense attorney is interested in promoting not only the legal rights but also the health and wellbeing of the defendant. At the same time, the defense attorney always makes the defendant's constitutional rights the primary concern. The defense attorney may exercise independent legal judgment within the parameters of the assignment as established by the court, limited to the issues which arise in the course Treatment Court consultation, and do not create an attorney-client relationship with Treatment Court participants. Representation shall be limited to the issues which arise in the course of Court consultations and shall not include representation at State expense on issues related to a specific charge of violation of law.

LAW ENFORCEMENT: The role of the police officer or deputy sheriff varies; they may be responsible for assisting with background investigations of potential participants, providing inter-county transports to treatment facilities, follow-up on warrants issued through the Court, and/or monitoring sanctions and compliance of participants via unannounced house visits and curfew checks. The law enforcement officer will act as a liaison between the program and their respective department and be responsible for dissemination of information to officers that come in contact with Treatment Court participants to assure reasonable and appropriate measures are used when checking the participants for compliance.

PROBATION REPRESENTATIVE: The Corrections/Probation Agent is responsible for direct supervision of the Treatment Court participant's compliance with the program, including implementation of the appropriate supervision level based on established measures, providing community linkages and referrals to appropriate agencies, and monitoring the day-to-day activities and home environment of the participant.

The Treatment Court participant will make contact with his or her probation/parole agent, as directed. The contacts will occur at the agent's office, the home of the participant, or; at the participant's treatment center, school or place of employment as determined by the agent. Contacts may be both scheduled and unscheduled and could include chemical testing during these visits. Participants will be evaluated by the agent to assure that the participant is on track with probation/parole requirements and that risk and needs factors are being addressed. Probation requirements may include referral to or assistance in accessing: skills testing and an educational assessment; job training and job-readiness training; school or other educational services; job placement services; family counseling; life skills classes; public assistance/Medicaid.

SUBSTANCE ABUSE TREATMENT PROFESSIONAL: Designated chemical health staff (such as a county-provided Rule 25 assessor and/or a local program provider) will participate in weekly staffing, make treatment recommendations to the Court, and as appropriate, will identify and/or provide a continuum of care for participants while advocating on behalf of the client and for the integrity of the Court. Treatment services could include hospital-based detoxification, short-term (30-day) residential treatment, long-term residential treatment, outpatient treatment,

and intensive outpatient treatment. Staff refer participants to specific programs based on their clinical suitability, the program's ability to comply with reporting requirements, and the program's capacity to meet any special needs that may exist (e.g., mental or physical health, or language barriers). Also, in the case of outpatient services, staff will attempt to refer participants to a provider located nearby that participant's community of residence.

MENTAL HEALTH PROFESSIONAL (MHP): Will assist the Team in their efforts to improve the identification of trauma history and co-occurring substance abuse and mental health disorders of Treatment Court participants in an effort to reduce recidivism rates of Treatment Court participants with COD. Assessment results and recommendations will be reported to the multi-disciplinary Treatment Court team and a referral for psychiatric services will be made when clinically appropriate. The MHP will assist in referring participants to the appropriate mental health services to in an attempt to reduce the waiting time for access to psychiatric services for Treatment Court participants. When applicable, the MHP will create a peer-based recovery system for program participants. The MHP will provide training for the Team pertaining to mental health diagnosis, treatments/therapies, medications, and etc.

EVALUATOR/RESEARCHER: The evaluator is responsible for developing reliable and valid methodologies to study the effectiveness of the Treatment Court. It is necessary for all Treatment Courts to regularly evaluate their effectiveness. This is done through primarily three evaluations: process, outcome, and cost-benefit. The evaluator is an essential component of every Treatment Court, though this is not necessarily a position/FTE employed by every court; i.e., the role can be filled/provided at the state, regional or local level. *The evaluator, while generally considered a part of the Treatment Court team, does not participate in Treatment Court team reviews as it compromises the objectivity of the evaluator and the integrity of the evaluation process.*

COURT SUPPORT STAFF

Court support staff includes courtroom clerk, the court reporter, and court security. Refer to the most recent Court Administration Policies (CAP) for additional information.

Key Component #2: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting the due process rights of the participants.

TEAM MEETINGS

In accordance with MJB/DCS Policy 511.1(4.1): Prior to the Treatment Court status hearings, the Fifth Judicial District Treatment Court Teams will meet at a time, location and frequency as established in each Treatment Court. Team meetings are not open to the public. All visitors must be approved by the Treatment Court Judge and/or Coordinator in advance of the meeting and must agree to all terms of the confidentiality policy and sign a confidentiality waiver. In the instance it is in the best interest of the Team for a member to be removed, the removal is to be approved by the judge.

Key Component #3: Eligible participants are identified early and promptly placed in the Treatment Court program.

STRUCTURE/MODEL

In accordance with MJB/DCS Policy 511.1(1.4) and NADCP/BPS, Vol. II, Standard 9; The Fifth Judicial District Treatment Courts are created to serve residents in all fifteen counties. Each court is designed to meet the needs of the population it is targeting, be it a single county or multi-county court. The program may be anywhere in length from an average of 12 to 24 months, based on individual case needs, and there may be multiple program tracks. Each program consists of four phases and advancement from phase to phase is based on meeting clearly outlined criteria.

TARGET POPULATION/ELIGIBILITY

In accordance with NADCP/BPS, Vol. I, Standard 1 and MJB/DCS Policy 511.1(3):

Eligibility and exclusion criteria for the Treatment Court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively in Treatment Courts. Candidates are evaluated for admission to the Treatment Court using evidence-based assessment tools and procedures.

Eligibility and exclusion criteria are defined objectively, specified in writing, and communicated to potential referral sources including judges, law enforcement, defense attorneys, prosecutors, treatment professionals, and community supervision officers. The Treatment Court team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.

The Treatment Courts target offenders for admission who are addicted to illicit drugs or alcohol and are at substantial risk for reoffending or failing to complete a less intensive disposition, such as standard probation or pretrial supervision. These individuals are commonly referred to as high-risk and high-need offenders. If a Treatment Court is unable to target only high-risk and high-need offenders, the program develops alternative tracks with services that are modified to meet the risk and need levels of its participants. If a Treatment Court develops alternative tracks, it does not mix participants with different risk or need levels in the same counseling groups, residential treatment milieu, or housing unit.

Candidates for the Treatment Court are assessed for eligibility using validated risk-assessment and clinical-assessment tools. The risk-assessment tool has been demonstrated empirically to predict criminal recidivism or failure on community supervision and is equivalently predictive for women and racial or ethnic minority groups that are represented in the local arrestee population. The clinical-assessment tool evaluates the formal diagnostic symptoms of substance dependence or addiction. Evaluators are trained and proficient in the administration of the assessment tools and interpretation of the results.

Participant eligibility:

- Age 18 or older at the time of the offense (EJJ Cases on case by case basis)
- US Citizen or qualified Alien

- Resident of the Fifth Judicial District
- Finding of substance use disorder, moderate or severe, consistent with most current DSM Criteria
- Eligible for treatment and have a source of funding for treatment (Rule 25, Insurance, etc.)
- Willingness to comply with the Treatment Court criteria
- High Risk and High Needs (unless alternative, separate track structured according to Evidence Based Practices, MN Treatment Court Standard 3.3.
- Ability to participate in the program, within the parameters of the Americans with Disabilities Act.

Early Identification: In accordance with MJB/DCS Policy 511.1(3.3 & 5): In order to affect an early intervention, it is preferred that candidates be identified as soon as possible after arrest. Treatment Courts shall use the RANT (Risk and Needs Triage) or LSCMI when available for appropriate offender populations to determine the individual meets the risk and needs level appropriate for Treatment Court participation.

Treatment Court teams should take action on a referral within two weeks of receipt. Referring information may be made by the following, but not limited to: law enforcement, jail staff, City or County Attorney, defense counsel, probation & parole, chemical treatment counselor and chemical use assessor or sentencing Judge.

	HIGH RISK	LOW RISK
HIGH NEEDS (DEPENDENT)	<ul style="list-style-type: none"> • STATUS CALENDAR • TREATMENT • PRO-SOCIAL AND ADAPTIVE HABILITATION • GRADUATED CONSEQUENCES FOR SUBSTANCE ABUSE • SELF-HELP/ALUMNI GROUPS 	<ul style="list-style-type: none"> • NONCOMPLIANCE CALENDAR • TREATMENT (SEPARATE MILIEU) • ADAPTIVE HABILITATION • GRADUATED CONSEQUENCES FOR SUBSTANCE ABUSE • SELF-HELP/ALUMNI GROUPS
LOW NEEDS (ABUSE)	<ul style="list-style-type: none"> • STATUS CALENDAR • SECONDARY PREVENTION • PRO-SOCIAL HABILITATION • SUBSTANTIAL CONSEQUENCES FOR SUBSTANCE ABUSE 	<ul style="list-style-type: none"> • NONCOMPLIANCE CALENDAR • PSYCHO-EDUCATION • ZERO TOLERANCE FOR SUBSTANCE ABUSE

		<ul style="list-style-type: none"> • INDIVIDUAL OR STRATIFIED GROUPS • SHORTER LENGTH OF SUPERVISION
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Offense eligibility:

At a minimum an adult Treatment Court will accept individuals who have been charged with and/or convicted of a crime that meets one of the following criteria:

Felony level offenses – in all cases there must be a plea or court order where the prosecuting attorney and defendant agree that part of the conditions of their sentence be completion of Treatment Court. The defendant shall receive some type of stayed prison sentence/sanction. Part of the conditions of any sentence will be the defendant successfully complete Treatment Court. Any sentence may include additional sanctions including a period of probation after successful completion of Treatment Court.

Probation violation cases – Cases where the defendant was convicted of a felony but not initially assigned to Treatment Court. The sentencing judge, after Treatment Court approval for admission to Treatment Court, must find that the defendant is amenable to Treatment Court. The county attorney agrees to place the offender in Treatment Court as a condition of probation unless the defendant is on probation for an offense which would be a presumed executed sentence, in which case the county attorney may block referral to Treatment Court.

Other Cases (EJJ, Gross Misdemeanor, felony DWI, etc.) – Notwithstanding any other provision herein, the Treatment Court team may accept, upon a joint motion of the prosecuting and defense attorneys, persons who do not initially qualify for Treatment Court because of failure to qualify under the eligibility criteria herein, provided the offender is not disqualified by the “violent offender” designation.

DISQUALIFICATION

In accordance with MJB/DCS Policy 511.1(3.4 & 3.5): Treatment Courts who receive grant funding will abide by more restrictive eligibility requirements as established by the funding source. Individuals must meet offense and offender eligibility criteria. Treatment Courts may consider decaying factors (e.g., how long ago the crime was committed, if the crime was committed when the offender was a juvenile, or etc.) of a potential participant’s criminal history to determine eligibility. Factors that may prohibit offender entry into Treatment Court include, but are not limited to:

1. Federal Definition of Violent Offender:

A “violent offender” means a person who—

1. Is charged with or convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which offense or conduct—

(A) The person carried, possessed, or used a firearm or dangerous weapon;

(B) There occurred the death of or serious bodily injury to any person; or

(C) there occurred the use of force against the person of another, without regard to whether any of the circumstances described in subparagraph (A) or (B) is an element of the offense or conduct of which or for which the person is charged or convicted; or

2. Has one (1) or more prior convictions for a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

2. Gang member or gang affiliation:

An individual is identified as a gang member based on verifying at least three of the following criteria and is involved in criminal activity, pursuant to the 2012 Minnesota Department of Public Safety:

1. Admits gang membership;
2. Arrested with a gang member;
3. Displays gang tattoo or brand;
4. Wears clothing or symbols intended to identify with a gang;
5. Appears in a photograph or image with a gang member engaging in gang related activity or displaying gang signs or symbols;
6. Name appears on a gang roster;
7. Identified as a gang member by a reliable source;
8. Is regularly observed or communicates with a gang member in furtherance or support of gang related activity;
9. Produces gang specific writing or graffiti in furtherance or support of gang related activity.

3. Confidential Informant – Anyone **currently** working as a confidential informant with any law enforcement agency.

4. Personal factors which may disqualify a defendant include, but are not limited to:

- a. Severe psychological problems (hallucinations, paranoia, anti-social personality disorders) or cognitive difficulties (that prevent the ability to understand or complete core concepts of the program) for which the Team has no resources available to address the needs;
- c. A medical condition requiring immediate attention;
- d. Transportation problems and no resources are available to remedy the problem;
- e. Unwilling to comply with the court order for the Treatment Court program;
- f. Does not have a history of substance abuse;
- g. Unable to physically participate in treatment activities (within guidelines of the Americans with Disabilities Act);
- h. At the discretion of the Treatment Court team, a person whose actual residence is so geographically distant from the Treatment Court program service area as to render the intensive probation required by the Treatment Court impractical, may be disqualified from Treatment Court participation.
- i. Undocumented immigrant

5. Probation time remaining of less than two (2) years.

Violent Offender Discretionary Criteria:

The primary purpose of the Fifth Judicial District Treatment Court Programs is to improve public safety. Consistent with Minnesota Offender Treatment Court Standard 3.4, persons with a significant history of crimes against persons shall not be admitted to the program. Otherwise eligible persons who have been charged with or found guilty of a felony crime of violence may be admitted or excluded at the discretion of the Treatment Court Team in accordance with the following terms:

a. Disqualification: Persons convicted of any felony level criminal sexual conduct offense or felony-level offense enumerated in Minn. Stat. § 624.712, subd. 5 involving the death or great bodily harm of any other individual, caused during the commission of or as a result of the offense.

b. Discretionary Admission: Persons convicted of any felony-level offense that falls under the disqualification criteria may be admitted to the program at the discretion of the Treatment Court Team. The Treatment Court Team shall evaluate the potential participant to determine whether inclusion of the participant in the program will negatively impact public safety. The team shall consider: (i) participants overall criminal history ii) the facts surrounding the charge/conviction; (iii) the amount of time that has passed since the conviction date; (iv) the extent to which the potential participant's chemical use contributed to the charge/conviction; and (v) whether there are other public safety factors, identified by the Treatment Court Team in its collective professional capacity, that would prevent the potential participant from safely participating in the program; (vi) teams have ability to accept violent offenders.

Criminal History Disqualifications

Current or prior offenses may disqualify candidates from participation if the defendant's prior record suggests that the defendant cannot be managed safely or effectively in a treatment court. Barring legal prohibitions, defendants charged with drug distribution or those with violent histories are not excluded automatically from participation in the treatment court. Prosecutors maintain the right to determine a defendant's eligibility for the treatment court.

Clinical Disqualifications

If adequate treatment is available, candidates shall not be disqualified from participation due to co-occurring mental health or medical conditions or because they have been legally prescribed medications including, but not limited to, psychotropic or addiction medication.

Anyone who faces new charges while an active participant in Treatment Court shall be subject to judicial review regarding their continued participation.

Participation in Treatment Court will not bar prosecution for any other current or past offenses.

Prior unsuccessful termination or successful graduation from a Treatment Court program unless approved by the team.

Treatment Court maximum capacity has been reached and a waiting list established.

Non-discrimination: In accordance with NADCP/BPS, Vol. I, Standard 2: It is the policy of the District that no person will be discriminated against on the basis of: race, color, creed, religion, national origin, gender and marital status, status with regard to public assistance, disability, sexual orientation or age.

CASE MANAGEMENT

Probation Supervision: There are five key functions provided by the supervising agent: assessment, planning, linking, monitoring and advocacy. Assessment is the initial and ongoing process of determining client needs, wants, strengths and resources. This information is then used in the planning process where goals and strategies are developed. A major responsibility of the probation agent is to link participants with the services and resources they need in order to reach their goals.

Probation agents work closely with treatment providers, family members, employers and social service agencies to implement the team approach to each participant's recovery. While primarily concerned with drug and alcohol use, the Treatment Court also considers underlying issues which would impair an individual's success in treatment and may compromise compliance with program requirements. It is the probation agent's role to make referrals for these and other needs:

- Skills testing and an educational assessment
- Job training and job-readiness training
- School or other educational services
- Job placement services
- Family counseling
- Life skills classes
- Public assistance/Medicaid

Once these linkages are made then the responsibility shifts to monitoring in order to see if the person is receiving and benefiting from the service. In the event a participant is being denied access to a service for which they are eligible, the agent then takes on an advocacy role for the participant.

Field supervision or making home visits is an important element. It is constructive to visit participants in their home situations to assess lifestyles, living arrangements and recovery. In the early phases of the program it is optimal if the agent has at least two contacts per week with participants. Random drug testing can also be conducted during field visits.

Cognitive skills programming is an evidence-based practice that has been incorporated into the programming for the offender population.

The Treatment Court probation agent will refer participants to, and may co-facilitate “Thinking for a Change” classes for Treatment Court participants when available.

The size of the probation agent’s caseload will vary, but it is anticipated there will be approximately 25 participants supervised by one agent at any one time.

Probation supervision fees: Probation Agents will follow their own agencies guidelines for the assessment and collection of probation supervision fees from Treatment Court participants.

Key Component #4: Treatment Courts provide access to a continuum of alcohol, drug, mental health and other related treatment and rehabilitation services.

TREATMENT/TREATMENT PROVIDERS

Qualified Providers: Treatment Providers, providing services to Treatment Court participants in the Fifth Judicial District, must meet Minnesota Board of Behavioral Health & Therapy licensing requirements.

In accordance with MJB/DCS Policy 511.1(8); NADCP/BPS, Vol. I, Standard 5; and NADCP/BPS, Vol. II, Standard 6: Treatment Court teams should have an understanding of patient rights regarding access to and provision of Alcohol or Other Drugs (AOD) and other related treatment and rehabilitation services. Treatment Courts must provide prompt access to a continuum of approved AOD and other related treatment and rehabilitation services, particularly ongoing mental health assessments to ensure:

1. All participants have an up-to-date treatment plan and record of activities.
2. All chemical dependency and mental health treatment services are provided by programs or persons who are appropriately licensed and trained to deliver such services according to the standards of their profession.
3. Treatment Court participants will be mandated to participate in the respective out-patient treatment provider designated by each treatment court team.

The Team will have ongoing communication with the treatment provider in reference to individual participants and their progress in treatment to ensure that treatment services are being delivered within available financial resources. Treatment Court teams should make reasonable efforts to observe Treatment Court treatment programs to gain confidence in the services being provided and to better understand the treatment process.

Each participant should contribute to the cost of the treatment he/she receives while participating in the Treatment Court, taking into account the participant’s, and when appropriate the guardian’s, financial ability. The treatment provider will regularly advise the Team as to the participant’s financial obligation to the treatment program.

Treatment Court treatment is intended for individuals assessed as substance use disorder of moderate to severe as per DSM (Diagnostic and Statistical Manual) diagnostic criteria and as being of moderate to high criminogenic risk.

Treatment Plan & Review: Whenever possible Treatment Court treatment providers should have separate tracks for Treatment Court participants/criminal justice clients.

The Courts will utilize a multi-systemic, therapeutic approach to treatment that is a cognitive and community based intervention. The treatment plan will be a comprehensive, coordinated, strength-based individual plan of treatment and rehabilitation services for each participant. The treatment plan will be developed in collaboration with the Treatment Court Team. This plan will address educational needs, substance abuse, employment, financial responsibilities, peer relationships and self-esteem issues regarding each participant.

Within a context of support and skill building, the plan will place developmentally appropriate demands on the participant for responsible behavior. Identified problems throughout the family or relationships will be explicitly targeted for change, and the strengths of each system will be used to facilitate such change. A crucial aspect of this approach will be its emphasis on promoting behavior change in the participant's natural environment.

The provider will identify and utilize a manualized treatment curriculum that is compliant with ASAM criteria. Each adult felony Treatment Court program is expected to deliver a cognitive behavioral component in their curriculum to build coping skills and decision-making skills. A cognitive approach will be used and the focus will be on the strengths of the participant. If the assessment indicates a need to address anger management, violence prevention, victimization issues, and values, the Treatment Provider will incorporate those in the treatment plan.

Each Team will request that the treatment provider share with the Team, at a minimum, an annual up-to-date outline of the evidence-based, manualized curriculum being utilized by the treatment program. The treatment program shall include a Community Reintegration Plan, which includes a relapse prevention plan that will be shared with the Team, upon the participant's request for graduation.

The treatment provider will provide regular participant progress reports, attend all scheduled Treatment Court staffings and status hearings, and promptly report any change of level of treatment, goals achieved, new areas of concern, or behavior that does not reflect a recovery life style of a participant to the Treatment Court team. The Coordinator will periodically request that the treatment provider inform the Team of the treatment group size. The Team may take action, when the treatment group size exceeds recommended size for group treatment for Treatment Court participants, of between eight to twelve members, unless the fidelity of the specific group is based on a different number. To the extent possible, it is the best practice model that Treatment Court and non-Treatment Court treatment groups are not mixed together. The Court expects that the treatment providers are providing evidence-based treatment curriculum and maintaining licensing standards as required by the State of Minnesota.

ANCILIARLY SERVICES

Community Support and Reintegration

The Court will utilize a continuum of services to assist participants in recovery.

Ancillary services include all of the community based organizations and other entities that are able to provide supportive services and address the recovery support needs of participants and their families. Some examples include:

- Governmental agencies (city, county, state and federal agencies)
- Employment/Training agencies
- Local housing authority
- Schools, colleges, vocational training schools
- Arts
- Private Foundations
- Faith-based communities/Agencies
- Libraries
- Recreational facilities
- Private Therapists
- Locally owned businesses
- Mental Health Agencies or Support Services
- Gender Specific Support Services

Many local business and foundations may be able to provide incentives for the program participants such as gift certificates, coupons for sporting or entertainment events, or assist a family in paying for necessities such as electricity or water bills.

Alumni/ Continuing care

Participants may be required to be available for six months after graduation to serve as a mentor for new participants or group sessions and/or perform public speaking as requested by the program. Aftercare also includes continued attendance at support group meetings or graduate support groups that continue to work on relapse prevention and alumni social meetings.

Funding for Alumni/Continuing Care is separate from the Treatment Court Program fund.

PROGRAM MODEL - PHASES

In accordance with MJB/DCS Policy 511.1(4.3): Each Court will have a program model establishing progressive and individualized plans that define minimum program elements and phase requirements. The initial phases of the Treatment Court intervention are intensive, gradually transitioning into less intensive intervention as the defendant progresses. Throughout the program, defendants are linked with appropriate specialized and ancillary services. The Court may impose additional requirements.

Each Court in the District shall establish minimum program elements for each treatment phase and each program will have a minimum of four phases which include:

- Stabilization, Orientation, Assessment and Treatment
- Recovery and Responsibility to Self

- Maintenance of Recovery and Responsibility to Self and Others
- Reinforce a Clean, Sober and Legal Lifestyle

In accordance with MJB/DCS Policy 511.1(9): Each Court in the District shall outline their requirements for each phase in their Court Participant Handbook. Participants must complete all requirements of each phase, prior to movement to the next. Treatment intensity is determined by the assessment of the treatment provider according to the needs of each individual and does not necessarily need to match the phase the participant is currently in, in the court program; i.e. the client may be in phase 1 of treatment but in phase 2 of the Treatment Court program. Phase adjustment may be made as a court sanction but is not primarily used in that fashion. Program length is individual to each program and their length is outlined in their client handbook. Each individual court program in the District operates under their own handbook and guidelines. [See Appendix ABCDE](#)

PARTICIPATION FEE

In accordance to Minnesota Statute 357.42, Treatment Court Fees (2017):

- (a) When a court establishes a treatment court process, the court may establish one or more fees for services provided to defendants participating in the process.
- (b) In each fiscal year, the court shall deposit the treatment court participation fees in the special revenue fund and credit the fees to a separate account for the trial courts. The balance in this account is appropriated to the trial courts and does not cancel but is available until expended. Expenditures from this account must be made for treatment court purposes.

A participation fee is owed by the participant to offset the cost of the program. Adult Treatment Court participants shall be assessed an \$800.00 (effective January 1, 2016) fee for participation in the Treatment Court program. No one will be denied access to Treatment Court due to economical indigence or inability to pay the participation fee. All Treatment Court fees are to be paid in full prior to successful graduation of the program. Revenue Recapture is utilized for any outstanding fees due to early withdrawal or termination from Treatment Court.

All program participation fees will be collected by Court Administration in the District counties and deposited into a separate account for exclusive use by the program. Funds may be used to pay for program costs (copying, brochure development, etc.); incentives; local training needs; and drug testing. In order for reimbursement to occur, contracts must be in place with the respective agencies and/or organizations.

Terminated participant fee policy: If an individual drops out or is terminated from the program s/he is responsible for paying the entire \$800 fee owed. Upon termination, the Treatment Court coordinator will notify court administration of the remainder of the fee owed and request revenue recapture. An order needs to be signed by the Treatment Court Judge ordering revenue recapture.

Key Component #5: Abstinence is monitored by frequent alcohol and other drug testing.

DRUG AND ALCOHOL TESTING

In accordance with MJB/DCS Policy 511.1(7) and NADCP/BPS, Vol. II, Standard 7: Drug and alcohol test results will be used to assist the court and treatment team in evaluating the participant's progress in the program. The results will be used to determine if the participant is progressing satisfactorily; if the treatment plan needs to be modified, and; if the participant will be terminated or graduated from the program.

1. Treatment Court participants will be randomly drug and/or alcohol tested as phase requirements indicate or when there is a suspicion of drug and/or alcohol use. Testing may occur at any time of day or night and may be administered by any Team representative.
2. Tests will be randomly sent to a lab to test for other substances not included in the field tests which will be normally be administered.
3. When available, all field tests will examine specimens routinely for evidence of dilution and adulteration. Urine specimens should also be tested for creatinine and specific gravity to detect adulterated or diluted test specimens.
4. Only certified laboratories will be used to confirm positive field urine tests.
5. Missed and adulterated tests are considered positive tests and will be sanctioned.
6. Policies and procedures for collecting and processing drug and/or alcohol tests will be followed according to established protocols of each participating county.
7. A testing call-in line (Testday Lite or Black Dog) will be established and participants will be assigned a code or color. Each participant will be required to call the testing line on a daily basis and if their code is named, they need to report to their designated testing location (jail, probation, treatment center, Sheriff's Office, or etc.) during the hours specified by the facility for testing. If a participant tests positive, the supervising agent will be contacted and the participant may be held and brought before the Treatment Court Judge or his/her designee, for a hearing.

Alcohol (ETG) testing:

1. The Court will randomly utilize ETG to test for the presence of alcohol use.
2. Whenever possible, the Court will utilize the ETG "Dip" tests. Due to the cost of the instant ETG "Dip" tests, the Treatment Court Probation Agent, or designee, will determine the use of ETG "Dip" tests based on the following:
 - a) Alcohol is the participants primary or secondary Drug of Choice
 - b) There is reasonable suspicion the participant may have used alcohol
 - c) Random
3. Whenever possible, the Court will test participants with ETG "Dip" tests on a schedule determined by the individual Court.
4. If a Treatment Court Probation Agent, or designee, tests beyond the formula, he/she will notify the Treatment Court Coordinator the amount of tests and reasoning for exceeding.
5. If the Treatment Court Probation Agent, or designee, chooses to conduct a targeted test day, where a number of ETG tests would be used at one given time, he/she will notify the

Treatment Court Coordinator in advance, whenever possible, to ensure the Court has a sufficient amount of ETG test to continue to randomly test participants.

6. If the participant admits to the use of alcohol after a positive ETG Dip Test, the participant will sign an admission form, the sample will be poured out and the Treatment Court Probation Agent will notify the Treatment Court Team to determine the appropriate sanction.
7. If the participant denies any use of alcohol the sample will be sent to the designated lab for ETG/ETS Confirmation. Proper "Chain of Custody" procedures will be followed.

Confirmations:

1. Any sample testing positive on the ETG "Dip" test, where the participant denies alcohol use will be mailed to the designated lab.
2. The participant will be informed that they are responsible to reimburse the Court, in the amount of \$30, if the test is confirmed positive.
3. If the test is confirmed positive the Treatment Court Probation Agent will notify the Treatment Court Coordinator to charge the participant in the amount of \$30.
4. As soon as possible, the Treatment Court Probation Agent will notify the Treatment Court Team of any ETG confirmations to determine the appropriate sanction.

LGBT Testing Policy:

Urine testing will be done in a method, which is both random and non-harassing. Samples shall only be taken by staff members of the same sex, (*Stricken language proposed by NADCP. This language needs to be revised for MN as DOC and law enforcement unions prohibit employees to witness drug tests of the opposite gender; regardless of the gender the individual identifies him/herself as.*)

Fee for Positive Drug Tests Confirmations:

1. Any sample testing positive on the EtG "Dip" test, where the participant denies alcohol use, will be mailed to a designated lab.
2. The participant will be informed that s/he is may be responsible to reimburse the Court in the amount of \$30.00, if the test is confirmed positive.
3. If the test is confirmed positive, the Treatment Court Probation Agent will notify the Coordinator.
4. The Team will decide an appropriate sanction and the Judge will issue an Order stating the sanction and positive test cost owed by the participant.

Policy pertaining to the use of prescribed addictive substances; including Medication Assisted Treatment (MAT):

It is expected that participants in the Fifth Judicial District Treatment Courts will remain abstinent from all non-prescribed mood altering substances while enrolled in the program, unless determined to be medically necessary, unless the court makes a finding based on evidence received. It is understood that there may be circumstances in which a participant may need to take addictive substances for medical or psychiatric reasons. A qualified physician shall review the prescribed medication as required by the manufacturer specifications. In order to ensure that participants remain in compliance with court and treatment expectations, it is required that participants who are taking a controlled substance do the following:

1. Inform their treatment provider and the Treatment Court case manager or probation agent at their first opportunity;
2. Obtain a note(s) from their prescribing physician(s) verifying their knowledge that the participant has an active substance abuse or dependence diagnosis, is enrolled in an abstinence-based chemical dependency treatment program as well as Treatment Court;
3. Sign a consent form in accordance with the requirements of 42CFR, Part 2 which authorizes the release of patient identifying information between their case manager, treatment provider and the physician, physician assistant or nurse practitioner who prescribed the drug or substance to the patient.

Should information be received from the physician which supports the participant's continued use of a controlled substance including medical marijuana or any other Homeopathic Medicine remedies, the case manager will consult with the prescribing professional to verify their knowledge and awareness of the individual history of chemical dependence, and if the prescribing professional is unaware of the individual history of chemical dependence, inform the prescribing professional accordingly and after the required information is received, if the prescribing professional believes that the individual should be permitted to continue to use the drug or substance prescribed, the individual must be permitted to continue to use the drug or substance but the Courts may over rule the physician's medical opinion. If there is insufficient information to support continued use, the participant must seek alternative treatment options.

Key Component #6: A coordinated strategy governs Treatment Court responses to participants' compliance.

SANCTIONS AND INCENTIVES

In accordance with MJB/DCS Policy 511.1(10) and NADCP/BPS, Vol. I, Standard 4: In applying incentives and sanctions, the ultimate goal is not punishment; it is to change behavior. Because addiction is a chronic condition, it is recognized that relapse is common and is part of the recovery process, particularly in the first several months following a participant's admission into the program. The early stages of treatment will focus on strategies to identify situations that stimulate cravings and relapse and help the participant develop skills to cope with these situations. Although Treatment Courts recognize that addicts have a propensity to relapse, *continuing use is not condoned*. The Treatment Court will impose appropriate responses for continuing drug or alcohol use, and responses will increase in severity for continued failure to abstain.

A participant's progress is measured not only by abstinence and compliance with treatment, but also with overall compliance with court rules. Therefore, incremental progress, such as showing up at court, arriving at treatment on time, attending and participating in the treatment sessions, cooperating with staff, and submitting to regular drug testing will be recognized. Small rewards for incremental successes such as grocery or gas certificates have an important effect on a participant's sense of accomplishment.

Sanctions must be predictable, controlled and consistent. Participant's ability to perceive fairness in sanctions and incentives is extremely important. Whether this matrix is absolute or flexible is at the discretion of the Treatment Court. If choosing a more flexible matrix, the judge should articulate why different people are receiving different responses. A list of possible incentives and sanctions is included in the participant handbook and will be explained to them during orientation.

Sanctions should be imposed as close to the behavior as possible. Sanctions need not be painful, humiliating or injurious, but they must be of sufficient intensity, and they must be delivered as soon as possible after every infraction. Undesirable behavior must be reliably detected and sanctioned at every instance; otherwise the participant is effectively placed on an intermittent schedule and the perception of fairness is at risk. Confirmation drug/alcohol testing is an important tool in resolving discrepancies and helping disrupt the denial of the user.

Separate Judicial and Treatment Responses. Participants should perceive a difference between treatment responses and judicial/program responses to avoid negative associations with treatment. For example, a relapsing participant might require residential treatment, but this should be described and understood as a treatment response and not a punishment. To maintain the distinction, the participant should simultaneously receive a program sanction, such as community service or increased court contacts.

Gift card, donations and other incentives purchases and tracking: The Treatment Court Coordinator will, as funding allows, purchase a variety of incentives and maintain a tracking system of purchases and distribution of incentives. The coordinator will follow judicial branch policies and procedures to accept any gifts or donations to the Treatment Court.

PROGRAM VIOLATIONS, APPREHENSION & DETENTION ORDERS, AND WARRANTS:

In accordance with MJB/DCS Policy 511.1(4.4): A Treatment Court program violation/sanction is not the same as a probation violation. The participant agreement states: I understand that by participating in the (county) Treatment Court program that I give up my right to a violation hearing if I am taken into custody for a period of time no longer than 72 hours (excluding weekends and holidays) for a violation of a condition of the (county) Treatment Court program, and this will NOT be considered a violation of the program.

When the probation agent learns of a program violation that does not impose an immediate public safety risk, the probation agent will notify the Team and request input to assist in developing a collaborative response. The Team needs to remember that this information is time sensitive and should respond prior to the next Treatment Court staffing to assist in providing the agent direction. Any sanction must occur proximal to the non-compliant behavior as possible. Whenever possible, the supervising probation agent of record should seek support from the Treatment Court Team before filing a probation violation report.

As an example: if the participant is in Treatment Court on a stay of adjudication and the Team is recommending revocation of the stay as the sanction for a Treatment Court violation, the Agent will be requested to file a probation violation report with the District Court.

The supervising agent has discretionary authority to request that law enforcement apprehend and detain defendants who pose a risk to public safety and do not need prior permission from the Treatment Court Team. If the agent believes the participant has absconded from the area, s/he shall proceed to request a warrant from the court. Once the agent has determined a response, s/he shall let the Team know what action was taken.

PROGRAM TERMINATION

Grounds for Termination:

Termination proceedings from Treatment Court may occur upon the occurrence of the following:

- The filing of a new criminal charge for a violent offense; grounds for immediate termination.
- The filing of a new criminal charge, other than traffic-related offenses (not including DWI) or a Controlled Substance Offense in the Fifth Degree involving the possession of a controlled substance for personal use.
- Repeated violations involving the unlawful use of chemicals or positive tests indicating unlawful chemical use.
- Documented incidents of repeated, willful failure to comply with Treatment Court requirements, such as: failure to attend court hearings, probation meetings, cognitive groups or other court-ordered programming, failure to comply with curfew requirements, and etc...
- Documented incidents of repeated failure to comply with court-ordered conditions related to the participant's acceptance and ongoing participation in the Treatment Court program
- Voluntary termination, based on the written request of a participant who wishes to withdraw from the program.
- Absconding. A warrant will be issued for participants who fail to appear for court. The participant will be suspended from the program during the time he/she is on the run. Termination may occur if they are on warrant status for 30 days or longer. - or - Termination will not occur until the individual is found and the team has determined if continued participation is appropriate

Pre-Termination Procedures:

1. The Team will identify a participant who is approaching one of the grounds for termination listed above.
2. A member of the Treatment Court Team (judge, probation agent, treatment provider, coordinator, law enforcement) will verbally warn the participant he/she is in violation or

non-compliance of Treatment Court requirements; such warnings will be documented in SharePoint.

3. On a case by case basis, members of the Treatment Court Team ~~will~~ may meet with the participant to establish a corrective action plan which clearly identifies and defines both the expectations that the Team has and what it is expected of the participant. The participant will be allowed an opportunity to be heard and present evidence regarding the violation(s) and to state his/her concerns regarding the terms of the Plan. The participant shall be allowed the opportunity to review the Plan with his/her attorney. The Team and participant will mutually agree to terms and conditions that are to be fulfilled by the participant, before signing the contract. The plan will be clearly identified as to the date it will be reviewed. Upon the review date stated on the Plan, the Team will clearly address whether or not the participant has fulfilled the expectations that have been agreed to in a specified timeframe.
4. The participant will be notified by the judge during a Treatment Court hearing of his/her potential to be terminated. The participant will be offered the opportunity to speak to the issues identified.

*Participants who are arrested and/or charged with committing one of the crimes identified above under Grounds For Termination, may not be afforded the same opportunity to receive a verbal warning of potential termination from the judge during a Treatment Court hearing or the opportunity to enter into a jeopardy contract. Each circumstance will be considered on a case by case basis.

Prior to termination an offense probation violation stay will be revoked.

Termination Review Procedures:

1. Corrective Action Plan - A Corrective Action Plan will be implemented as defined above. If the participant does not comply with the terms of the Plan within the stated timeframe and the team is in agreement, the Treatment Court probation agent will draft a probation violation report, recommending the participant's termination from Treatment Court.
2. Initial Report - Suspected violations will be presented to the Treatment Court Team by the assigned probation officer. The alleged violations should be thoroughly investigated by the probation officer for accuracy and completeness, including a description of the current violation(s), the defendant's history of Treatment Court supervision and treatment efforts and a recommendation as to whether termination from the program is necessary.
3. Treatment Court Team Review – The Treatment Court Team will review and discuss the report in a timely manner, preferably at the next available Treatment Court Team meeting. The individual facts and circumstances that relate to the violation shall be considered, as well as the following non-exclusive list of mitigating and aggravating factors:

Mitigating Factors	Aggravating Factors
<ul style="list-style-type: none"> • Offender is in the early stages of the program and has not been afforded the opportunity to address chemical dependency issues • The offender's acknowledgement of cause(s) for violation, positive attitude, and overall general success and effort in the program • Lengthy period of time between violations • An offender's particularly challenging life situation (e.g., mental illness or disorder, involvement in an abusive domestic relationship, financial hardship, etc.) 	<ul style="list-style-type: none"> • Offender's lack of effort and commitment towards the program and self-improvement • Offender's unwillingness to accept responsibility for wrongful action(s)

It is understood that while the defense attorney for the defendant may participate in termination discussions, the defense attorney will not be asked to support a termination decision.

Termination:

1. Final Decision – Except as indicated below, the Judge will make the final decision as to as to whether the defendant will remain in Treatment Court or be terminated. In making this determination, the Judge shall take into consideration the comments and general consensus of Treatment Court Team members. The decision shall be based upon a determination that the participant has failed to comply with the terms of the corrective action plan and is no longer amenable to Treatment Court supervision. For all offenses not involving a Controlled Substance Offense in the Fifth Degree involving the possession of a controlled substance for personal use or traffic offenses (excluding DWI), the following termination criteria are applicable:

- Termination may occur upon conviction of any felony offense.
- Termination shall occur upon conviction of any violent offense or offense committed with the use of a weapon.
- Termination shall occur upon conviction of any gross misdemeanor or misdemeanor offense if the underlying offense for which the defendant was accepted into the Treatment Court would have resulted in a presumptive prison sentence, absent substantial and compelling mitigating factors which would warrant the defendant's continuation in the Treatment Court program as agreed to by all Treatment Court Team members.

- Termination may occur upon conviction of any gross misdemeanor or misdemeanor offense if the underlying offense for which the defendant was accepted into the Treatment Court would have resulted in a presumptive non-prison sentence. The Treatment Court Team shall consider both mitigating and aggravating factors in making a recommendation to the Judge as to whether termination should occur.
2. Collateral Issues – Issues collateral to sentencing, such as a determination of restitution or the disposition of other pending criminal cases involving the defendant, shall be resolved by the District Court Judge under normal court procedures related to the probation violation hearing.
 3. Probation Violation Hearing and Sentencing - If terminated, the case will proceed to regularly scheduled District Court calendar for a probation violation hearing. The participant shall receive a copy of the probation violation report which contains the Treatment Court sanctions that were grounds for termination from Treatment Court. Terminated Treatment Court Participants shall be afforded due process rights.

Per the Minnesota Court of Appeals decision in *State v. Travis William Mylo Cleary*, A15-1493, File No. 42-CR-13-948 (July, 2016), “When the sole basis for revoking probation is a probationer’s termination from drug court and the drug court judge participated in the drug court team’s decision to terminate the probationers from drug court, a probationer is entitled to have a judge other than the drug court judge preside over the probation revocation hearing.”

Key Component #7: Ongoing judicial interaction with each Treatment Court participant is essential.

JUDICIAL STATUS REVIEW HEARINGS

In accordance with MJB/DCS Policy 511.1(6): The Judicial Status Review Hearings follow the team meetings at a time, location and frequency as established in each Treatment Court. The docket is dedicated solely to Treatment Court participants. All Team members should be attending the status hearings to present to the participants as a united entity. All adult Treatment Court hearings are open to the public.

Key Component #8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.

EVALUATION

In accordance with MJB/DCS Policy 511.1(12) and NADCP/BPS, Vol. II, Standard 10: The Courts will monitor and evaluate the effectiveness and achievement of program goals. The Courts will follow the guidelines for program evaluation as required by any state or federal funding sources. The five primary domains to be assessed will include:

- The need for the program
- The design of the program
- The program implementation and service delivery
- The program impact or outcomes, and
- Program efficiency

Key Component #9: Continuing interdisciplinary education promotes effective Treatment Court planning, implementation, and operations.

TEAM MEMBER TRAINING

In accordance with MJB/DCS Policy 511.1(11): New team members will receive an orientation to the program from the Treatment Court coordinator. They will also be encouraged to visit an operational Treatment Court within the first two months of becoming a team member and attend formal Treatment Court training. Annual team member training/retreats will be conducted. Treatment providers are encouraged to provide training to the teams on addiction, recovery, relapse, treatment services, etc. Opportunities to attend state and national trainings will be offered as funding and resources allow.

Anyone who attends training, funded by the District, will return to the team and share what was learned during their training experience. District Court Judges new to the team will also receive training.

Key Component #10: Forging partnerships among Treatment Court, public agencies, and community-based organizations generates local support and enhances Treatment Court effectiveness.

STEERING/EXECUTIVE COMMITTEE

At the discretion of the court, Treatment Courts may create a steering committee, comprised of key officials and policymakers to provide oversight for Treatment Court policies and operations, including development and review of the Treatment Court budget.

TRANSFER POLICY

Within District:

1. New Referrals (offenders who are not yet enrolled in any Treatment Court) –
 - a. The Coordinator, Probation Agent or Prosecutor of the county in which an offender is charged with an offense may make a referral directly to the Treatment Court of the county of the offender's residence. All parties (Coordinators, Agents, and Prosecutors) will communicate regarding the referral and the applicant's eligibility for acceptance. All parties will be in agreement on the applicant's potential eligibility. Upon agreement, the referral will be brought to the full Team of the Treatment Court of the applicant's residence for final

approval. Any unpaid balance as of the day of transfer will go to the accepting county.

- b. Upon acceptance into the Treatment Court of the county of the applicant's residence, a copy of the Treatment Court Participation Agreement and Order will be filed with both the county of participation and the county of offense. The Court in the county of participation will file the Agreement and Order for purposes of establishing the Treatment Court civil fee file and the Court in the county of offense will file the same in the criminal file of record.
2. Current participants
 - a. A current participant may request to transfer to another Treatment Court when s/he moves to another county within the District.
 - b. Upon agreement of the receiving county, the Treatment Court judge may grant this transfer request. The Coordinator will submit the Order to the Court of county of participation and request it also be filed with the county of transfer. See Appendix: Z
3. Transfer Procedure – current participants
 - a. The originating Treatment Court representative shall submit information the receiving Treatment Court requests. This information may include, but is not limited to:
 - i. Treatment Court referral form,
 - ii. Criminal record,
 - iii. Substance Use assessment and individual treatment plan,
 - iv. Summary of participants history in Treatment Court,
 - v. Pre-sentence investigation,
 - vi. Initial criminal court order or plea agreement,
 - vii. Transfer Order, and etc.
4. Additional considerations for transfers
 - a. A case should not be transferred until the participant is verified to be living/working in the accepting transfer county.
 - b. A case should not be transferred until all issues related to warrants or detainers have been resolved.
 - c. A case cannot be transferred while the participant is incarcerated, unless special arrangements have been made with the receiving county.
5. Transfer determinations
 - a. The final decision to accept a candidate rests with the receiving Treatment Court.
 - b. After a case has been transferred, all case management decisions are the sole responsibility and discretion of the receiving Treatment Court.
 - c. The receiving Treatment Court judge has the same authority over a transfer case as s/he does over cases sentenced with their county.
6. Jail sanctions – if the receiving Court imposes a jail sanction for a program violation, any

jail time that exceeds 72 hours (excluding weekends and holidays) shall be served in the county of original conviction.

7. Probation violation hearings – whether it results in a sanction, continuation of probation or termination, it is under the jurisdiction of the offense originating Court.
8. Graduation/Termination/Administrative Discharge of a Transferred Participant
 - a. Upon successful completion, the transferred participant will graduate from the Treatment Court s/he completes all requirements. An order of successful completion will be sent to the originating Treatment Court and/or original prosecuting county to be filed in the original criminal file and processed according to Court policy.
 - b. When a transferred participant is not able or fails to meet the requirements of Treatment Court and is either administratively discharged or terminated as a result, the receiving Treatment Court shall send an order of such to the original Court and initiate further case proceedings accordingly.

Out of District:

- All out of District transfers are done through the State Court Administrator's Office.
- Transfer requires an Out of District Judicial Appointment
- Out of District Judicial Appointment requires a Supreme Court Order
- Contact: Kristina Ford (Kristina.Ford@courts.state.mn.us)

The initial stages of recovery are exceptionally fragile and participants are at high risk for relapse. Therefore, any transfers need to be accomplished without a lapse in treatment, supervision or judicial involvement. If a transfer cannot be effectuated in a timely manner, that participant must report as directed to the county of offense, county of offense, until the transfer process is complete.

RECORD KEEPING

The District will follow the guidelines for program evaluation as required by any state or federal funding sources. The management information systems to be utilized by the Treatment Courts are Tyler Supervisory, MNCIS and CSTS. Treatment Court files will be maintained separate from traditional case files. Treatment information and progress reports will be kept separate from court files, by one or more of the methods described below:

- Maintained in a separate treatment file, located in the judge's office.
- Shredded after team meetings and/or Treatment Court sessions;
- Maintained in locked cabinets, separate from the court files.

ETHICS AND CONFIDENTIALITY

Treatment Courts alter the traditional relationships between justice system officials and treatment providers. Participants may waive certain rights in order to enter a Treatment Court program; however, the fundamental rights of each participant to representation and due process should not be jeopardized. Eligible participants must be given the opportunity to consult with an attorney prior to entering the program. Participants should be clearly informed of the requirements of the program including possible sanctions they may be exposed to for noncompliance. While the

Treatment Court team may make recommendations regarding participant placement, sanctions, incentives, etc., all judicial decisions remain the responsibility of the judge.

Two Federal laws and a set of regulations guarantee the strict confidentiality of information about persons – including participants – receiving alcohol and drug abuse assessment and treatment services. The legal citations for these laws and regulations are 42 U.S.C. SS 290dd-3 and 42 C.F.R. Part 2. These laws and regulations are designed to protect patients' privacy rights in order to attract people into treatment. These regulations state that information cannot be disclosed without written consent of the participant.

There are two federal laws and a set of regulations that guarantee program participants will enjoy strict confidentiality of information about them when receiving alcohol and/or substance assessment and treatment services. See, 42 U.S.C. §§ 290dd-3 and ee-3 and 42 C.F.R. Part 2. Confidentiality of program participants is governed by 42 U.S.C. § 290dd, which encourages treatment and is applicable to most problem solving or specialty court programs. If the court orders screening, assessments, referrals, treatment, and/or diagnosis for a program participant, §290dd will be applicable. The regulations also permit disclosure without the program participant's consent in several situations, to include medical emergencies, program evaluations, and communications among program staff members. However, federal laws do not protect any information regarding suspected child abuse or neglect from being reported.

Refusal to sign consent for disclosure: Participants who refuse to sign consent or waiver forms permitting essential communications to occur can be excluded from treatment or provided treatment on a temporary basis in the hope that resistance to signing the consent or waiver forms will evaporate as treatment proceeds. Continue refusal to sign consent or waiver forms by the participant will be a ground for termination from the specific treatment program and from the Treatment Court.

MANDATED REPORTING

Team members shall refer to and abide by **Minnesota State Statute, Chapter 626**, and report instances that fall under the category of maltreatment to minors or vulnerable adults, or etc. as defined by statute.

GRIEVANCE POLICY

Participant are notified that s/he has the right to file a grievance if s/he believes s/he has been treated unfairly or that there is a conflict existing between the participant and a team member. A grievance is any form of unfair treatment, harassment, bullying, or disrespect. A grievance shall not apply to situations that might result in a participant's termination from the program. All parties involved in the conflict will be questioned and given the opportunity to present their respective arguments.

A participant wishing to file a grievance will be directed to contact the Court Coordinator. If the coordinator is the source of the complaint, s/he will be directed to the Fifth Judicial District Treatment Court Manager, Sonja Kruger, 507-344-4947 or the current presiding Chief Judge of the Fifth Judicial District, found at: <http://www.mncourts.gov/Find-Courts/Fifth-Judicial-District.aspx>